

REMARKS

Claims 1 – 21 are currently pending in the case. Claims 20 and 21 are newly presented for first consideration on the merits. Claim 19 is allowed. Claims 3-10, 16, and 18 are allowable if rewritten in independent form, and this indication of patentable subject matter is acknowledged with appreciation. Claims 1, 2, 11-15, and 17 have been rejected and are presented for reconsideration and further examination in view of the foregoing amendments and following remarks.

In the outstanding Office Action, the Examiner rejected Claims 1, 2 and 11 under 35 U.S.C. 102(b) as being anticipated by newly-cited U.S. Patent No. 3,614,050 to Greenhalgh (hereinafter referred to as “Greenhalgh”) and rejected claims 1, 12 – 15 and 17 under 35 U.S.C. 102(b) as being anticipated U.S. Patent No. 4,052,031 to Melfi (hereafter referred to as “Melfi”).

By this Response, Applicant presents new independent Claim 20 and dependent Claim 21, and respectfully traverses the Section 102(b) rejections. It is submitted that no new matter has been entered into the claims. Support for new claim 20 may be found in the figures as originally filed. Support for new claim 21 may be found in the original specification, including *inter alia* on page 4.

Rejections under 35 U.S.C. 102(b)

The Examiner rejected Claims 1, 2 and 11 under 35 U.S.C. 102(b) as being anticipated by newly-cited Greenhalgh, and rejected claims 1, 12 – 15 and 17 under 35 U.S.C. 102(b) as being anticipated by Melfi.

Response

Reconsideration and withdrawal of the rejections are respectfully requested.

To anticipate a claim, a single reference must contain every element of the claim. Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 231 USPQ 81, 90 (Fed. Cir. 1986). "The standard for lack of novelty, that is, for 'anticipation,' is one of strict identity." 1 Chisum on Patents §3.01. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." Verdegaal Bros. v. Union Oil Co. Of Ca., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). In the case of Verve, LLC v. Crane Cams, Inc., 311 F.3d 1116, 1120, 65 USPQ2d 1051 (Fed. Cir. 2002) the court said that "A single reference must describe the claimed invention with sufficient precision and detail to establish that the subject matter existed in the prior art," citing In re Spada, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990) ("the reference must describe the applicant's claimed invention sufficiently to have placed a person of ordinary skill in the field of the invention in possession of it"). The Federal Circuit decisions have repeatedly emphasized that

anticipation is established only if (1) all the elements of an invention, as stated in a patent claim, (2) are identically set forth, (3) in a single prior art reference. The Federal Circuit decisions have also, explicitly or implicitly, rejected any standard of "substantial identity." Thus, an anticipation rejection under Section 102 must have a single reference in which each of the claimed features are disclosed in that reference.

Applicant submits that neither Greenhalgh nor Melfi discloses the features of the present claims. Independent Claim 1 recites a formwork system for use in casting prefabricated panels, which includes, *inter alia*, "a plurality of side forms" and a plurality of brace structures which brace the side forms. These brace structures have "adjustment means for permitting adjustment of the position of each side form on the platform *to adjust the length and width dimensions of the panel to be cast.*" (Emphasis added).

The Greenhalgh patent is directed to a reusable forming unit for pouring enclosed wall structures in situ. It includes a rigid frame with a number of vertical sections, where one of the sections is "pivotally mounted for vertical swinging...between a first vertical operative position and a second upwardly and outwardly swung released position." (Greenhalgh, claim 1)

Greenhalgh too fails to disclose, teach, or suggest an adjustment apparatus for the claimed side forms or an adjustment means as part of a brace structure bracing the side form *for adjusting the length and width dimensions of the panel to be cast.*

The Examiner identifies sheets 54 with the presently claimed side forms, and links 58 with the presently claimed adjustment means. This identification is traversed.

As stated by Greenhalgh, the “sides [are] free to be moved by the means 60, 58. *The sides and front are lifted and pulled outward away from the poured walls.*” (col. 4, lines 9 – 12). “The movement of sheet 54 ...is outward, away from the poured walls and upwards.” (col. 2, lines 69 – 72). Thus, links 54 are used for moving the sides away from the formed concrete wall *only after the wall has been formed*, and not for adjusting the length and width dimensions of the panel *to be cast* as presently claimed.

The Examiner’s statement that links 58 permit “adjustment of the position of each side form on the platform to adjust the length and width dimensions of the panel to be cast” is wholly unsupported. First, Greenhalgh is not even used for the formation of wall panels, but for the formation of complete walls in situ, as recited in the abstract and as made clear in Figure 2. Further, Greenhalgh makes no suggestion that the links 58 can be used for any purpose other than their intended purpose, namely, moving sides away from an *already formed* wall, and not for adjusting a wall before formation. Finally, even if *arguendo* the walls of Greenhalgh are considered as panels, sheet 54 only establishes only one dimension, namely the thickness, of a wall, and no adjustment to link 58 would affect the length or width of a wall at all. These dimensions are not affected by any adjustment means in Greenhalgh, but only by the placement of a second wall forming device perpendicular to the first device, again, in situ. It is to be noted that the Examiner’s

cited passage (col. 1, lines 30 – 32) makes no mention of the adjustment of the length or width of a wall, and further makes no mention of the use of links 58.

Therefore, Greenhalgh does not disclose, teach, or suggest “a plurality of side forms” and a plurality of brace structures which brace the side forms, having “adjustment means for permitting adjustment of the position of each side form on the platform *to adjust the length and width dimensions of the panel to be cast.*” (Emphasis added).

For these reasons, it is submitted that the Greenhalgh patent does not anticipate the present inventive subject matter. Accordingly, it is requested that the Examiner reconsider and withdraw the rejections under 35 U.S.C. 102(b) of independent Claim 1.

For the same reasons as set forth above with respect to Claim 1, it is submitted that Claims 2 and 11, dependent on Claim 1, are also not anticipated by the Greenhalgh patent.

The Melfi patent is directed to an adjustable concrete form apparatus for casting concrete walls for buildings. It includes a support structure and a sub-structure which support two platform sections defining a first and a second panel surface of a panel to be cast.

As noted by Applicant in the previous response, the Melfi patent fails to disclose, teach, or suggest an adjustment apparatus for the claimed side forms or an adjustment means as part of a brace structure bracing the side form for adjusting the length and width dimensions of the panel to be cast.

The Examiner has withdrawn the previous identification of horizontal adjustment means 104 and vertical adjustment means 128 as corresponding to the presently claimed "adjustment means...to adjust the length and width dimensions of the panel to be cast." The Examiner now cites pins 90 as corresponding to the presently claimed the adjustment means. This identification is traversed.

As stated by Melfi, "bars 88 are pivoted or hinged to the bar 38 by means of pins 90. The free ends 92 of bars 88 have eccentric cams 94 rotatably attached thereto with pins 96." It is unclear how a pin can serve as an adjustment means, since these pins merely serve as the pivot points for the bars 88 (which the Examiner has identified as part of the brace structure). However, even if *arguendo* such pins can serve as adjustment means *per se*, the pins cannot reasonably be considered "adjustment means...for adjusting the length and width dimensions of the panel to be cast" as claimed. Quite simply, adjusting pins 90 at most would adjust the placement of facing 82, which only establishes two of the four boundaries of a panel formed according to Melfi, and therefore defines only *one* of *either the length or the width of the panel*. No adjustment to pin 90 would affect the other dimension, and no comparable pins or structures are disclosed by Melfi for adjusting side panels to adjust another dimension of the panel. It is noted that previously-cited adjustment means 108 and 124 are for the vertical and horizontal *placement* of the panel, and not for dimensional adjustment thereof. (See Melfi, col. 6, lines 17 – 22).

Therefore, Melfi does not disclose, teach, or suggest “a plurality of side forms” and a plurality of brace structures which brace the side forms, having “adjustment means for permitting adjustment of the position of each side form on the platform *to adjust the length and width dimensions of the panel to be cast.*” (Emphasis added).

For these reasons, it is submitted that the Melfi patent does not anticipate the present inventive subject matter. Accordingly, it is requested that the Examiner reconsider and withdraw the rejections under 35 U.S.C. 102(b) of independent Claim 1.

For the same reasons as set forth above with respect to Claim 1, it is submitted that Claims 12– 15 and 17, dependent on Claim 1, are also not anticipated by the Melfi patent.

New Claims

Applicant presents herewith new claims 20 and 21 to better distinguish features of the present disclosure. Swift consideration and allowance of these claims are requested.

New Independent Claim 20 is based on Independent Claim 1, but is drawn to an embodiment in which “four side forms [are] positionable on the platform surface, each side form having a side form surface defining one of four additional panel surfaces of the panel to be cast, *such that a first two of the side forms together set the length of the panel, and a second two of the side forms together set the width of the panel.*” (Emphasis added) Each of these four side forms is braced by “at least one brace structure...having adjustment means for permitting adjustment of the position of each side form on the platform to adjust

the length and width dimensions of the panel to be cast.” It is respectfully submitted that none of Greenhalgh, Melfi, nor any of the previously cited art discloses such a combination of side panels and corresponding adjustment means. As noted above, neither Greenhalgh nor Melfi allow for adjustment of four side forms together defining both the length and the width of a panel.

New Claim 21 depends from Claim 1, and further specifies that “*each* adjustment means permits *continuous* adjustment *in a single dimension* of the position of each side form on the platform to adjust the length or width dimensions of the panel to be cast.”

(Emphasis added) It is respectfully submitted that none of Greenhalgh, Melfi, nor any of the previously cited art discloses such continuous adjustment means. The pins of Melfi and the links of Greenhalgh each angularly rotate the corresponding sheets or panels in two dimensions at once, and only between two discrete positions.

Consideration and allowance of these new claims are requested.

Allowable subject matter

The Examiner objected to Claims 3 – 10, 16, and 18 as being dependent from rejected base Claim 1, but indicated that these Claims would be allowable if rewritten in independent form. The Examiner also allowed claim 19. This indication of patentable subject matter is acknowledged with appreciation.

Excess claims fees for one additional dependent claim accompany this response.

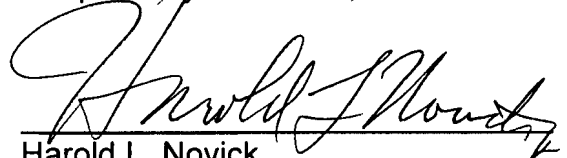
CONCLUSION

In light of the foregoing, Applicant submits that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicant respectfully requests that the Examiner contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

In the event this paper is not timely filed, Applicant petitions for an appropriate extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

Date: November 23, 2007
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